

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 No. 1:13-cr-10164-WGY

4
5 UNITED STATES OF AMERICA

6
7 vs.

8 MICHAEL BOURQUE, et al

9
10
11 *****

12 For Hearing Before:
13 Judge William G. Young

14 **EXCERPT TRANSCRIPT**
15 Five Plea Change Hearings
16 Kinney, Goolst, Akasa, Chisholm, and Roy

17 United States District Court
18 District of Massachusetts (Boston)
19 One Courthouse Way
20 Boston, Massachusetts 02210
21 Monday, April 14, 2014

22 *****

23 REPORTER: RICHARD H. ROMANOW, RPR
24 Official Court Reporter
25 United States District Court
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1 P R O C E E D I N G S

2 (**EXCERPT** begins.)

3 (Begins, 9:15 a.m.)

4 THE CLERK: Criminal Action 13-10164, the
5 United States of America versus Bourque, et al.

6 THE COURT: I'm going to proceed this way.
7 I'm informed that various of the individuals at the bar
8 desire to tender pleas of guilty. So let's just get the
9 folks in, and the Clerk has set it up for me, who are
10 sitting in the jury box, to identify themselves. I'm
11 going to be talking to you individually.

12 But, Mr. Kinney?

13 MR. KINNEY: Yes, your Honor.

14 THE COURT: Thank you.

15 Mr. Goolst?

16 MR. GOOLST: (Nods.)

17 THE COURT: Yes.

18 Mr. Akasa?

19 MR. AKASA: (Raises hand.)

20 THE COURT: Thank you.

21 And, Mr. Roy?

22 MR. ROY: (Raises hand.)

23 THE COURT: All right. And, counsel, you
24 should feel free to come stand by your clients. They're
25 in custody, so naturally I've got marshals here, but you

1 get so you can consult with your clients. And I'll
2 stand here so that I can speak to them all directly.

3 Well, actually, that's not going to work, I've
4 got to look at them, because we're going to talk, we're
5 really going to talk together. And while I can do this
6 and I can do it fairly in a group, each one of you is
7 entitled to be treated individually. Each one of you is
8 in charge, really in charge of whether you're going to
9 go through with this and plead guilty or not. So let me
10 start this way.

11 My name is Bill Young. I'm the judge who is
12 responsible for presiding in this session of the court.
13 I hear, through the lawyers, who told the Clerk, that
14 each one of you wants to plead guilty to the charge that
15 has been made against you individually. Before I can
16 let you plead guilty, I have to find out certain
17 things.

18 I have to find out that you, each one of you,
19 knows what you're doing. I have to find out that you
20 know what you're giving up, because you give up things
21 that are terribly important to you. I have to find out
22 that you know what you're letting yourself into, what
23 can happen to you if you plead guilty. I have to find
24 out that you want to plead guilty, not that you're happy
25 about it, but that you, individually, each one of you --

1 not the lawyers, not your family, nobody else, you've
2 decided that the best thing for you to do is plead
3 guilty. And then I have to find out that the government
4 has enough evidence against each one of you that if we
5 go to trial on this case, you could be found guilty of
6 the charge against you.

7 To find these things out, I ask you questions. If
8 you don't understand something I'm asking you, stop me.
9 I have to explain it so that you understand it. And
10 while I need to look you in the eye and we need to talk,
11 your lawyers have come up as close as we can manage so
12 that you can talk to them and you can stop this at any
13 time and say, "I want to talk to my lawyer." Just
14 gesture, I'll stop and we'll wait. I'm not in a hurry
15 here.

16 Lastly it's entirely up to you whether you go
17 through with pleading guilty today or not. If you
18 decide you don't want to plead guilty, I'm not going to
19 be angry. I'm all set to go to trial, my job is to give
20 fair and impartial trials, and I'm ready to give you,
21 each one of you, such a trial.

22 I want to be very clear with you that I would
23 never ever punish you or any of the co-defendants for
24 going to trial. Having a trial is one of your
25 constitutional rights. Now, real world, usually there's

1 a discount for people who plead guilty. The reason?
2 The government doesn't have to spend the tax money to
3 have a trial. Usually I give the discount. I'm not
4 bargaining with you, you're entitled to know how I
5 work. Unless I find out you've committed some other
6 crime or you lied to me or something like that, usually
7 I give the discount. So if you decide you want a trial,
8 fine, no discount, but I'll never punish you, not one
9 day, for going to trial.

10 Now, let's go, I'm going to do the, "Do you
11 know what you're doing?" piece of it first.

12 But before I ask the questions, you should be
13 sworn and the Clerk will swear you.

14 (ALL DEFENDANTS, sworn.)

15 THE COURT: And we'll start in the order that
16 I called your name.

17 And, Mr. Kinney, would you state your full name.

18 MR. KINNEY: John Patrick Kinney.

19 THE COURT: And, Mr. Kinney, do you understand
20 the things I've just explained?

21 MR. KINNEY: Yes, your Honor.

22 THE COURT: How old are you, Mr. Kinney?

23 MR. KINNEY: 34.

24 THE COURT: How far did you go in school?

25 MR. KINNEY: I got my GED.

1 THE COURT: Are you taking any medication
2 today?

3 MR. KINNEY: No.

4 THE COURT: Under the influence of alcohol?

5 MR. KINNEY: No.

6 THE COURT: Under the influence of any drug?

7 MR. KINNEY: No.

8 THE COURT: Know what you're charged with?

9 MR. KINNEY: Yes.

10 THE COURT: Tell me.

11 MR. KINNEY: Conspiracy with intent to
12 distribute oxycodone.

13 THE COURT: We'll stop there, for the moment.

14 Mr. Goolst, will you state your full name.

15 MR. GOOLST: Philip Goolst.

16 THE COURT: And did you understand the things
17 that I've just explained?

18 MR. GOOLST: Yes.

19 THE COURT: How old are you, sir?

20 MR. GOOLST: 44.

21 (Interruption by Court Reporter.)

22 THE COURT: How far did you go in school?

23 MR. GOOLST: High school.

24 THE COURT: One thing I skipped with
25 Mr. Kinney and I'm going to go back.

1 Have you ever been treated for a mental condition
2 of any sort? And I'll stick with you, Mr. Goolst.

3 MR. GOOLST: No.

4 THE COURT: Are you taking any medication
5 today?

6 MR. GOOLST: No.

7 THE COURT: Are you under the influence of
8 alcohol?

9 MR. GOOLST: No.

10 THE COURT: Under the influence of any drug?

11 MR. GOOLST: No.

12 THE COURT: Do you know what you're charged
13 with?

14 MR. GOOLST: Yes.

15 THE COURT: Tell me.

16 MR. GOOLST: Conspiracy to deliver oxycontin.

17 THE COURT REPORTER: I'm sorry, Judge, I
18 didn't hear that.

19 THE COURT: Conspiracy to deliver oxycontin,
20 he said.

21 And back to you, Mr. Kinney, because I didn't ask
22 about your mental state.

23 Have you ever been treated for any mental
24 condition of any sort?

25 MR. KINNEY: No, your Honor.

1 THE COURT: Are you aware of any mental
2 condition you may have?

3 MR. KINNEY: No.

4 THE COURT: All right. Now we'll got to
5 Mr. Akasa.

6 Would you state your full name, sir.

7 MR. AKASA: David Akasa.

8 THE COURT: And, Mr. Akasa, do you understand
9 the things that I have just explained here?

10 MR. AKASA: Yes.

11 THE COURT: How old are you?

12 MR. AKASA: 25.

13 THE COURT: How far did you go in school?

14 MR. AKASA: College.

15 THE COURT: A graduate?

16 MR. AKASA: I was a senior.

17 THE COURT: All right. Have you ever been
18 treated for a mental condition of any sort?

19 MR. AKASA: No.

20 THE COURT: Are you aware of any mental
21 condition you may have? You have to answer. You said
22 "No"?

23 MR. AKASA: No.

24 THE COURT: All right. Are you taking any
25 medication today?

1 MR. AKASA: Yes.

2 THE COURT: Tell me, if you don't mind.

3 MR. AKASA: Insulin.

4 THE COURT: What's that for?

5 MR. AKASA: Diabetes.

6 THE COURT: Are you taking it as prescribed?

7 MR. AKASA: Yes.

8 THE COURT: How do you feel today?

9 MR. AKASA: Good.

10 THE COURT: My concern is you feel normal and
11 able to make decisions on your own, is that right?

12 MR. AKASA: Yes.

13 THE COURT: And so you know that I'm the judge
14 and I'm neutral, you know that the government is the
15 prosecutor, they're the ones who are pressing the
16 charge, and you have a lawyer who is representing you,
17 and you understand those roles?

18 MR. AKASA: Yes.

19 THE COURT: Do you think you can make your own
20 decisions today?

21 MR. AKASA: Yes, sir.

22 THE COURT: Are you under the influence of
23 alcohol?

24 MR. AKASA: No.

25 THE COURT: Are you under the influence of any

1 drug?

2 MR. AKASA: No.

3 THE COURT: Do you know what you're charged
4 with?

5 MR. AKASA: Conspiracy with intent to possess
6 and distribute oxycodone.

7 THE COURT: All right.

8 And, Mr. Chisholm, would you state your full name.

9 MR. CHISHOLM: Brian Chisholm.

10 THE COURT: How old are you, Mr. Chisolm?

11 MR. CHISOLM: 45.

12 THE COURT: How far did you go in school?

13 MR. CHISHOLM: I graduated high school,
14 attended college.

15 THE COURT: How far did you get in college?

16 MR. CHISOLM: A little short of an associate's
17 degree.

18 THE COURT: Have you ever been treated for a
19 mental condition of any sort?

20 MR. CHISOLM: No.

21 THE COURT: Are you aware of any mental
22 condition you may have?

23 MR. CHISHOLM: No.

24 THE COURT: Are you taking any medication?

25 MR. CHISHOLM: No.

1 THE COURT: Under the influence of alcohol?

2 MR. CHISHOLM: No.

3 THE COURT: Under the influence of any drug?

4 MR. CHISHOLM: No.

5 THE COURT: Do you know what you're charged
6 with?

7 MR. CHISOLM: Yes.

8 THE COURT: Tell me.

9 MR. CHISOLM: Conspiracy to possess and
10 distribute oxycodone.

11 THE COURT: And, Mr. Roy, would you please
12 state your full name.

13 MR. ROY: Francis Roy.

14 THE COURT: And how old are you, sir?

15 MR. ROY: 33.

16 THE COURT: And how far did you go in school?

17 MR. ROY: I graduated high school.

18 THE COURT: Have you ever been treated for a
19 mental condition, sir?

20 MR. ROY: No, sir.

21 THE COURT: Are you aware of any mental
22 illness or condition you may have?

23 MR. ROY: No.

24 THE COURT: Are you taking any medication
25 today?

1 MR. ROY: No.

2 THE COURT: Under the influence of any drug?

3 MR. ROY: No, sir.

4 THE COURT: Under the influence of alcohol?

5 MR. ROY: No.

6 THE COURT: Do you know what you're charged
7 with?

8 MR. ROY: Yes.

9 THE COURT: Tell me.

10 MR. ROY: Conspiracy to distribute oxycodone.

11 THE COURT: Do you understand the matters that
12 I explained when I first starting talking to you this
13 morning?

14 MR. ROY: Yes.

15 THE COURT: And I'll skip back to you,
16 Mr. Chisholm.

17 Do you understand the matters I explained to you
18 earlier?

19 MR. CHISOLM: Yes.

20 THE COURT: And, Mr. Akasa, do you understand
21 the matters I explained to you earlier?

22 MR. AKASA: Yes.

23 THE COURT: All right.

24 Now, talking to you all, I want to explain to you
25 your rights, perhaps not all of them, but your

1 significant rights.

2 The government has made this charge, it's a charge
3 of conspiracy, but each one of you now starts innocent
4 and the government has to prove as to each one of you
5 individually that you are guilty of conspiracy. You're
6 entitled to an individual verdict even though we'll try
7 the case as to a group. The verdict will be
8 individual.

9 Now, here's what they've got to prove and they've
10 got to prove it, the government, beyond a reasonable
11 doubt. They have to prove that each one of you joined
12 in a conspiracy to do something that the law prohibits.
13 And this joinder in the conspiracy -- and it's not good
14 enough that maybe you hung around with the wrong people,
15 it's not proof of conspiracy that other people were
16 engaged in a conspiracy to possess oxycodone with intent
17 to distribute or do other acts that violate the law,
18 even if you knew about it. "Conspiracy" means you and
19 one of the other people that they have charged, or more
20 than one, engaged in an actual deal to violate the law,
21 an actual agreement.

22 Now, the deal has got to be with another
23 co-conspirator, another person who, like you, is
24 prepared, is planning, is agreeing to violate the law.
25 Undercover police officers, informants, they don't

1 count, they're not co-conspirators because they're not
2 really, truly -- whatever they may say, they're not
3 truly in on the deal.

4 So conspiracy is that criminal agreement to
5 violate the law. It doesn't have to be in writing. It
6 doesn't have to be a handshake. It doesn't have to be a
7 wink or a nod. But it's got to be genuine. They've got
8 to prove that you got in on or formed, were part of,
9 agreed, with this conspiracy to violate the law. That's
10 one thing.

11 The second thing they've got to prove is that what
12 the specific goal, the specific intent of the
13 conspirators is, and in this case the specific intent
14 is, the goal of the conspiracy has got to be, um, not,
15 for example, receiving stolen refrigerators and
16 distributing them -- it isn't just a conspiracy to
17 violate the law in some respects, it's a specific
18 conspiracy, and here the specific conspiracy that
19 they've charged and they've got to prove is to possess
20 with intent to distribute oxycodone.

21 What does that mean? "Possess" means what you
22 would think it would mean, it's the common understanding
23 of "possess." You "possess" something when you have
24 it. I've got my keys in my pocket. I possess them.
25 I'm carrying them around. But it also means having the

1 power to exercise control over them. I have a briefcase
2 in my office here in the building. Now I'm here in the
3 courtroom, the briefcase is there, but I put the
4 briefcase there and I can go take it when I want it. I
5 possess it.

6 So, first of all, the goal has to be to
7 possess of the conspiracy. Here it's to possess
8 oxycodone, a specific substance, a substance that the
9 law forbids the people from possessing, unless available
10 through the medical business and the like. But the law
11 generally forbids us all from possessing oxycodone.

12 That's not enough. It's to possess this oxycodone
13 with the idea not of using it, not of taking it, but of
14 distributing it. And distributing it, in terms of the
15 law, means passing it on to other people. Now, usually
16 that means selling it and making some money from the
17 sale of it. But the charge here is conspiracy, it's an
18 agreement to violate the law and the specific conspiracy
19 is to possess oxycodone with the intent to distribute
20 it. And that's the charge.

21 The government doesn't have to prove that any of
22 you actually did it, but they have to prove that you
23 were in on a deal to do it.

24 In this session of the court, as I read the
25 Constitution, one of the things that may bear upon what

1 sentence I will impose upon you, if you plead guilty or
2 are found guilty, is how much oxycodone is reasonably
3 attributable to each one of you. That doesn't mean how
4 much oxycodone you actually distribute, actually did, it
5 means how much reasonably you knew this group, these
6 conspirators, were dealing with, whether you did it or
7 not. I'll make them prove it to a jury beyond a
8 reasonable doubt.

9 Now, there may be some other things, which one was
10 the leader or something else. Anything that would make
11 your sentence higher, any of the things I'm supposed to
12 look at to decide what sentence -- not the stuff that
13 helps you, a discount because you pleaded guilty, or
14 anything else about you personally, that they don't have
15 to prove, but I'll consider it at the appropriate time.
16 But anything that would make your sentence higher, I'll
17 make them prove it to a jury beyond a reasonable doubt
18 if we go to trial.

19 I keep talking about proving and trials. If we go
20 to trial here, a jury will decide these things, not me.
21 The jury, you'll have some say through your attorneys
22 who sits on that jury. So the government has some say,
23 too, but you have some say. The jury of average people,
24 they'll be the ones who decide.

25 At the trial you have the right to confront the

1 witnesses against you. Now that means the witnesses,
2 they'll testify right there from that witness stand,
3 you'll be right here in the courtroom, you can watch
4 them, but much more important than that, just watching
5 them, your lawyers can ask them questions, can cross-
6 examine them, your lawyers can make arguments on your
7 behalf, your lawyers can suggest that as to the two
8 elements I say the government has to prove, there is a
9 reasonable doubt. And if there's a reasonable doubt,
10 you cannot be found guilty. The lawyers can argue that.

11 You can call witnesses on your own behalf. You
12 can testify on your own behalf, but you don't have to.
13 In fact you don't have to do anything. The government
14 made these charges -- or the charge, it's a single
15 charge, and the government has got to prove this charge
16 beyond a reasonable doubt. You don't have to do
17 anything. You can sit there at counsel table and see
18 what the government proves. And to the extent you're
19 silent, I say to the jury, you're innocent. That's the
20 word I use. You are innocent people. And the
21 government made the charge, the government's got to
22 prove the charge beyond a reasonable doubt.

23 Now, you can push back in all the ways that I
24 said, but you don't have to, you don't have to do
25 anything, and they cannot, the jury cannot hold it

1 against you.

2 Now that applies to me, too, seriously insofar as
3 my mind can do it. Yes I come in here, I'm told certain
4 people are going to plead, you people are in custody,
5 that's to make sure you show up for the trial, but to me
6 you're all innocent because I don't know what the
7 evidence is going to be in this case and my job is to
8 give a fair and impartial trial. So I'm not thinking,
9 "Well, this one is probably guilty and maybe there's
10 some question about that one," to me you're innocent.
11 And when I explain these things, I'm not giving you
12 anything. These are your rights, you have every one of
13 these rights.

14 Now, if you plead guilty, you're giving them all
15 away. Here's what's going to happen. When I'm done
16 making sure you're acting voluntarily, I'll say to
17 Mr. Yoon, "So as to these five folks, what have you got,
18 tell me briefly what evidence you have?" And then I'll
19 say, "Well, is that true? Do you understand that?"
20 That's as close to a trial as you ever get. There's
21 never a jury. You don't have the right to cross-examine
22 or confront the witnesses against you. You still have
23 the right to be silent.

24 Now, that's true. Until I sentence you, you don't
25 have to say anything about what your involvement is.

1 Once you're sentenced though, then the government has
2 every right to find out what you did as to this charge,
3 what you did as to this charge, once you're sentenced.
4 In other words, your right to be silent is gone.

5 Now, for the ones who want to go to trial, I plan
6 to start the trial today. But who knows? Suppose I
7 continued that trial and then, as time passes, I
8 sentence you, that means you can be called to testify
9 against the other people they've charged and you have,
10 if you're sentenced, you have nothing to say about it.

11 Likewise if you plead guilty here this morning and
12 you go from truly being innocent, as far as I'm
13 concerned, to being guilty, you're guilty and all that
14 remains is for me to figure out what the sentence is,
15 not today, but once I've got a presentence report.
16 There's no taking back the plea if you plead, then
17 you're guilty, and all I have to do is sentence you.

18 Now, Mr. Kinney, do you understand all those
19 things I just explained?

20 MR. KINNEY: Yes, your Honor.

21 THE COURT: And, Mr. Goolst, do you understand
22 those things?

23 MR. GOOLST: Yes, your Honor.

24 THE COURT: Mr. Akasa, do you understand those
25 things?

1 MR. AKASA: Yes.

2 THE COURT: Mr Chisholm, do you understand
3 those things?

4 MR. CHISHOLM: Yes, your Honor.

5 THE COURT: And, Mr. Roy, do you understand
6 those things?

7 MR. ROY: Yes, your Honor.

8 THE COURT: Now let's talk about what may
9 happen to you. And because sentencing is complex, I
10 need to talk to the government's lawyer here and it may
11 be different for different ones of you for different
12 reasons. So I turn now to the -- and I'll go person by
13 person and we'll figure it out, some of you are pleading
14 without a plea agreement, some of you have plea
15 agreements and we'll take that individually. But the
16 reason I talk to him now is just what he thinks he can
17 prove. He's the one whose job it is to see if he can't
18 come up with a sentence that the government wants.

19 So while you're still innocent, you need to listen
20 to what he says could happen to you. Now that doesn't
21 mean that that's what I will do, I'm neutral, I'm the
22 judge, but ultimately I will sentence, and I need to
23 know from him what, as I would constitute it, what's the
24 highest thing, what's the heaviest sentence I could
25 impose upon you. And that is I don't -- let's say I

1 don't give you any discount and I go as high as the
2 sentencing guidelines will go, which is as high as I
3 think the Constitution will allow me to go, and then I
4 want him to tell me what the sentencing guidelines
5 recommend.

6 Now that doesn't mean -- and if there's any
7 mandatory minimum, I want to know that. I want to know
8 it because I want you to know it while you're still
9 innocent. And then if you have a plea agreement, I want
10 to go over the plea agreement so that you really know
11 what could happen to you here. So now we're going to go
12 person by person and talk it through.

13 So we'll start with Mr. Kinney with respect to --
14 I want to know what enhancements and where they lead,
15 talk of the guideline, and then I want to know with it
16 the discount for the plea, what's the range.

17 MR. YOON: Yes, your Honor.

18 For Mr. Kinney, given that the defendant, um, was
19 responsible for 498 to 1,990 oxycodone 30-milligram
20 pills, which translates into 14.92 grams and 59.70 grams
21 of oxycodone, the equivalence of between 100 and 400
22 kilograms of marijuana, leads to a base offense level of
23 26 at the criminal history 2.

24 And so, your Honor, just simply that, um, it is 70
25 to 87 months, that is without a plea. Should there be a

1 plea of guilty, the guideline range would be 51 months
2 to 63 months.

3 THE COURT: And no minimum mandatory?

4 MR. YOON: Correct, your Honor.

5 THE COURT: All right.

6 Mr. Kinney, now, you and I need to talk. So what
7 he tells me is if you plead guilty here, I could send
8 you to prison for 87 months. And I'm going to use all
9 these figures because -- I'm not saying it would be
10 higher than 87, but you understand it could be up to 87
11 months. Are you clear on that?

12 MR. KINNEY: Yes, your Honor.

13 THE COURT: Now, under these guidelines,
14 they're advisory, I don't have to follow them. I can go
15 higher. I can go lower. And at the sentencing I'm
16 going to listen to your attorney as well. But the
17 guidelines are just that, they're guidelines, and I take
18 them seriously. And they say, for the government, that
19 I should sentence you to prison for 51 to 63 months. Do
20 you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Now, in your case you have a plea
23 agreement. Let's take a look at it, make sure that is
24 your plea agreement.

25 MR. KINNEY: Yes, it is.

1 THE COURT: And have you read that?

2 MR. KINNEY: Yes, sir.

3 THE COURT: And have you talked it all over
4 with your attorney?

5 MR. KINNEY: Yes, I have.

6 THE COURT: Do you think you understand it?

7 MR. KINNEY: Yes.

8 THE COURT: So let's see what it says.

9 With a plea agreement, it's like a contract
10 between you and the government. If you do what you're
11 supposed to do under the plea agreement, I will make
12 them do what they're supposed to do under the plea
13 agreement. But you understand I'm not bargaining with
14 you, I just want you to understand.

15 Do you understand that?

16 MR. KINNEY: Yes, your Honor.

17 THE COURT: So here's what they say they are
18 going to recommend. (Pause.) They say they are going
19 recommend the discount and the low end of the
20 guidelines, is that how you understand it?

21 MR. KINNEY: Yes, your Honor.

22 THE COURT: So it sounds like they're going to
23 be recommending that you go prison for 51 months. Do
24 you understand that?

25 MR. KINNEY: Yes, your Honor.

1 THE COURT: Okay. They put in all these plea
2 agreements that if I sentence you in accordance with
3 what this deal is here, that you can't appeal, you can't
4 challenge it after I sentence you, and that's the law to
5 put this in here. But when I come to sentence you, if
6 you plead guilty or are found guilty, I'm going to tell
7 you that you have a right to appeal and you do. The
8 problem is that the only way you do, if you go through
9 with this, with this plea agreement, is if there is
10 something called "manifest injustice," because they're
11 going to run right into me or some judge in a higher
12 court and say, "Look, he pleaded guilty and he waived
13 his rights to appeal and the like." Now, a judge could
14 find manifest injustice, but I'll tell you, since I
15 started seeing this in plea agreements, I've never seen
16 a case where that happened. So in effect you've lost
17 your right to appeal.

18 | Do you understand that?

19 MR. KINNEY: Yes, your Honor.

20 THE COURT: Now, other than this deal, that's
21 what your plea agreement is, has there been any promise
22 made to you, any promise at all to get you plead
23 guilty?

24 MR. KINNEY: No, your Honor.

25 THE COURT: No one said, "You know, plead

1 guilty before Young because we know he'll do this or
2 that"?

3 MR. KINNEY: No, your Honor.

4 THE COURT: Did anyone threaten you with
5 anything to get you to plead guilty?

6 MR. KINNEY: No.

7 THE COURT: This is a conspiracy case. Are
8 you covering up for someone else by pleading guilty
9 yourself?

10 MR. KINNEY: No.

11 THE COURT: Do you know that if you're
12 pleading guilty to this charge, um, if you are not a
13 citizen, you have the risk of being deported from the
14 United States, denied admission under the laws of the
15 United States, denied naturalization under the laws of
16 the United States?

17 MR. KINNEY: Yes, I understand that.

18 THE COURT: Have you had enough time to talk
19 all of this over with Mr. McCormick, your attorney?

20 MR. KINNEY: Yes, I have.

21 THE COURT: Has he been a good attorney for
22 you, gotten for you those things which are your rights
23 under the law?

24 MR. KINNEY: Yes, he has.

25 THE COURT: Are you satisfied with his

1 representation of you?

2 MR. KINNEY: Yes.

3 THE COURT: You still want to plead guilty?

4 MR. KINNEY: Yes, your Honor.

5 THE COURT: Why?

6 MR. KINNEY: Because I am guilty.

7 THE COURT: All right.

8 Now Mr. Goolst. In your case you don't have a
9 plea agreement, so we'll see where we are here. And I'm
10 going to ask the same question of Mr. Yoon. It's
11 perfectly fine to plea without an agreement, but we
12 don't know what he's going to recommend, so I'll ask
13 him.

14 And you haven't got a deal. You haven't waived
15 your rights to appeal what I do. It's what is called a
16 "straight-up plea," you're going to plea, but you don't
17 have a deal with the government. That's lawful, but I
18 want you to understand it.

19 Do you understand it, Mr. Goolst?

20 MR. GOOLST: Yes.

21 THE COURT: Now, Mr. Yoon, he's still required
22 to follow the law and I need to know how his
23 calculations go even though at the time of sentencing
24 I'll listen to your lawyer and I'll listen to you. So
25 the same calculations as to Mr. Goolst.

1 MR. YOON: Your Honor, I did want to make
2 clear for all of the defendants, um, before I proceeded,
3 that the sentencing guideline ranges that I am advising
4 the Court of are calculated, um, without the two-point
5 suggested reduction by the sentencing commission
6 amendment of April 10th, 2014. So the sentencing
7 recommendation of the government will actually be
8 ultimately at sentencing will be two levels below the
9 sentencing guideline range.

10 THE COURT: Well, that's helpful. So what
11 you're saying is you're going to go ahead, since I have
12 discretion anyway, you're going to adopt what the
13 sentencing commission has advised, so your range is
14 going to be two levels lower.

15 MR. YOON: Yes, your Honor.

16 THE COURT: Then, though it makes it more
17 complex, we'll need to know, everyone needs to know. So
18 go back to Mr. Kinney.

19 MR. YOON: Yes, your Honor.

20 THE COURT: So as to Mr. Kinney, what is the
21 range you're going to be advising me of?

22 MR. YOON: Yes, for Mr. Kinney the ultimate
23 range that the government will advise will be a 41-to-
24 51-month range, your Honor, so the low end of the
25 guidelines will be 41 months.

1 THE COURT: All right. The sentencing
2 commission is changing their policy really and I respect
3 that, though I'm not bound by it, and so though now it
4 reads 51 to 63 months, they've just amended it and since
5 they've amended it, the government is going to adopt
6 that. So he tells me what he really will recommend is
7 41 to 51 months.

8 Do you understand that?

9 MR. KINNEY: Yes, your Honor.

10 THE COURT: Now, understand I don't have to go
11 along with any of that, I can go up to 87 months. We're
12 clear on that?

13 MR. KINNEY: Yes.

14 THE COURT: Now that he's explained that,
15 let's get these various figures, Mr. Yoon, for
16 Mr. Goolst.

17 MR. YOON: Yes, your Honor. Thank you.

18 For Mr. Goolst, the range of oxycodone
19 attributable to Mr. Goolst is between 498 and 1,990
20 oxycodone 30-milligram pills, translating into 14.92
21 grams and 59.70 grams of oxycodone. Your Honor, the
22 equivalency there is between 100 and 400 kilograms of
23 marijuana. Your Honor, the base offense level would be
24 24. The government does believe that Mr. Goolst, as a
25 runner for Mr. Bourque, was a minor participant under

1 3(b)(1.2)(b). So, your Honor --

2 THE COURT: Now, don't -- I appreciate you're
3 saying that, but to get the maximum --

4 MR. YOON: Yes, sir.

5 THE COURT: -- don't figure that in.

6 MR. YOON: Yes, sir.

7 THE COURT: But you can figure it in as to the
8 other calculations you give me, and here's why. Not
9 because I wouldn't go along with that, but you've got to
10 know the worst that can happen to you. So assume that I
11 don't go along with that, that's the figure I want from
12 him, from the maximum that you could get hit with, and
13 then, since that's the government's view, we'll see what
14 they say as to the other.

15 You understand now, I don't have to go along with
16 this, I just want you to know what, as a practical
17 matter, you're really looking at. Right? You
18 understand this?

19 MR. GOOLST: Yes.

20 THE COURT: Very well.

21 All right. Without that, for the maximum, but
22 then include it for the various ranges you're going to
23 give me.

24 MR. YOON: Yes, your Honor. That range will
25 be 78 months to 97 months, um, with, your Honor, a -- a

1 reduction, your Honor, then the potential range, if the
2 defendant is considered to be a minor participant,
3 would, in fact, be 63 to 78 months, your Honor. Your
4 Honor, with acceptance, it would be 46 to 57 months.
5 And, your Honor, the government will be recommending a
6 range of 37 to 46 months. And so the low end of the
7 guidelines, 37 months.

8 THE COURT: Tell me what the range is before
9 this amendment?

10 MR. YOON: Oh, I apologize, your Honor, I
11 appear to have misstated. If I could start over.
12 Mr. Demissie has pointed that out --

13 (Pause.)

14 THE COURT: These things are complex, but
15 they're very serious to all of you, because these
16 numbers mean something. It's all very well for me to
17 say I don't have to follow them, but they come from the
18 sentencing commission and I pay attention to them. So
19 we need to hear the right numbers now while you're still
20 innocent.

21 MR. YOON: Yes, your Honor. Actually the
22 final range, your Honor, the government will be
23 recommending, is going to be 37 to 46 months, the low
24 end being 37.

25 THE COURT: Understand. But without the

1 recent amendment, what's the range, as it stands now?

2 MR. YOON: Yes, your Honor. As it stands now,
3 46 to 57 months, your Honor.

4 THE COURT: Thank you. Okay.

5 Now, even with all of this data, I could send you
6 to prison for 97 months. Do you understand that?

7 MR. GOOLST: Yes, your Honor.

8 THE COURT: The sentencing guidelines, as they
9 stand now, say that I should send you to prison for 46
10 to 57 months, but with this amendment, which the
11 government's going to go along with, that will take us
12 to 37 to 46 months, and in your case, even without a
13 plea, they're telling me that they will recommend 37
14 months. So if you plead guilty, you can hold them to
15 that.

16 Do you understand those things?

17 MR. GOOLST: I do.

18 THE COURT: All right.

19 Now, other than the promise, because that's what
20 it is, that Mr. Yoon just made to you, other than that
21 promise, has anyone promised you anything to get you to
22 plead guilty?

23 MR. GOOLST: No, your Honor.

24 THE COURT: Are you -- you know, nothing about
25 me, you know, "We know Young, Young will do this or

1 That," anyone say anything like that?

2 MR. GOOLST: No.

3 THE COURT: Anyone threaten you with anything
4 to get you to plead guilty?

5 MR. GOOLST: No, your Honor.

6 THE COURT: Are you covering up for someone
7 else?

8 MR. GOOLST: No, your Honor.

9 THE COURT: Do you know if you're guilty of
10 this crime and not a citizen, you can be deported,
11 denied admission under the laws of the United States and
12 denied naturalization under the laws of the United
13 States. Do you know that?

14 MR. GOOLST: Yes.

15 THE COURT: Are you satisfied with
16 Mr. Demissie as your attorney?

17 MR. GOOLST: Yes.

18 THE COURT: Has he been a good attorney for
19 you, gotten for you those things that are your rights?

20 MR. GOOLST: Yes.

21 THE COURT: Do you still want to plead
22 guilty?

23 MR. GOOLST: Yes.

24 THE COURT: Why?

25 MR. GOOLST: Because I did it, your Honor.

1 THE COURT: All right.

2 Now, Mr. Akasa, you have a plea agreement and
3 let's have a look at that first.

4 Do you understand the plea agreement is your deal
5 with the government?

6 MR. AKASA: Yes.

7 THE COURT: I show you that page. Is that
8 your signature?

9 MR. AKASA: Yes.

10 THE COURT: And is that your plea agreement?

11 MR. AKASA: Yes, it is.

12 THE COURT: And have you talked this all over
13 with Mr. Barron?

14 MR. AKASA: Yes.

15 THE COURT: Do you think you understand it?

16 MR. AKASA: Yes, sir.

17 THE COURT: You know that that's your bargain
18 with the government. I want you to be clear on that.
19 And as to you I want the same information from
20 Mr. Yoon. He's going to tell me the most, as I
21 understand the Constitution, the highest sentence under
22 the Constitution I could impose upon you, then he can
23 take into account other reasons for going down and
24 giving you these ranges, the range as it stands now and
25 the amended range that they'll go along with.

1 But while we're still talking about the plea
2 agreement, I assume in here there's the same waiver
3 language about appealing. They can do that, but I will
4 tell you that if I sentence you, that you have a right
5 to appeal and you do have a right to appeal, but if my
6 sentence falls within what's contemplated by this plea
7 agreement, it's really futile because if you try,
8 they'll say, "Wait a second, he agreed not to," and
9 unless there's manifest injustice, which I at least have
10 never seen, then you're stuck with the sentence I give
11 you.

12 Do you understand that?

13 MR. AKASA: Yes, I do.

14 THE COURT: All right. Let's have the same
15 data from Mr. Yoon.

16 MR. YOON: Yes, your Honor.

17 For Mr. Akasa, your Honor, Mr. Akasa is
18 accountable for 1200 oxycodone, 30 milligram pills, that
19 translates to between 14.92 grams and 59.70 grams of
20 oxycodone, equivalency to 100 to 400 kilograms of
21 marijuana. And the base offense level is 26. So the
22 highest guideline range at base level of 26 would be 63
23 to 78 months.

24 THE COURT: So 78 is the top?

25 MR. YOON: Yes, your Honor.

1 THE COURT: All right. And now the range with
2 the appropriate discount.

3 MR. YOON: Yes, your Honor. With acceptance
4 the range would be 46 to 57 months with a maximum of 57
5 months. And the government's recommendation would take
6 into account the amendment and that range would fall to
7 37 for 46 months, the 46 months being the maximum of
8 that range.

9 THE COURT: And your recommendation would be
10 37?

11 MR. YOON: Correct, your Honor.

12 THE COURT: So following the same procedure,
13 if you plead guilty here, I can sentence you up to 78
14 months in prison.

15 Do you understand that?

16 MR. AKASA: Yes.

17 THE COURT: And the range that at least I'm
18 advised as things stand today is a sentence of 46 to 57
19 months.

20 Do you understand that?

21 MR. AKASA: Yes, I do.

22 THE COURT: But because the government is
23 going to go along with this amendment, that brings it
24 down to 37 to 46 months and they're going to recommend
25 37 months.

1 Do you understand that?

2 MR. AKASA: Yes.

3 THE COURT: Have you had enough time to talk
4 all of this over with Mr. Barron?

5 MR. AKASA: Yes.

6 THE COURT: Has he been a good attorney for
7 you?

8 MR. AKASA: Yes.

9 THE COURT: Gotten for you those things that
10 are your rights under the law?

11 MR. AKASA: Yes, your Honor.

12 THE COURT: Are you satisfied with his
13 representation of you?

14 MR. AKASA: Yes.

15 THE COURT: Do you still want to plead
16 guilty?

17 MR. AKASA: Yes, I do.

18 THE COURT: Why?

19 MR. AKASA: Because I'm guilty.

20 THE COURT: Okay.

21 Now, Mr. Chisholm, you don't have a plea agreement
22 but you can still plead straight up, that means that
23 they haven't yet made a promise to you, but we'll see if
24 they'll willing to make a promise to you today. But as
25 far as I know, there's no deal, is that correct?

1 MR. CHISHOLM: That's correct.

2 THE COURT: All right. So even without a deal
3 I am interested -- I can't go higher than some number,
4 under the Constitution, and I will be advised on another
5 range or ranges and I certainly will take that into
6 account, though I'm not bargaining with you.

7 Do you understand those things?

8 MR. CHISHOLM: Yes, sir.

9 THE COURT: All right. Mr. Yoon, would you
10 give me the same information for Mr. Chisholm.

11 MR. YOON: Yes, your Honor. Thank you.

12 The range of oxycodone here would be between 498
13 and 1990 oxycodone, 30 milligram pills, between 14.92
14 grams and 59.70 grams of oxycodone, an equivalency to
15 between 100 and 400 kilograms of marijuana.

16 Your Honor, the defendant's base offense level is
17 29 as the defendant does fall into, um, under 4(b)(1.1),
18 the career offender sentencing guideline, as he was 18
19 years of age at the time of this offense. The instant
20 offense, this offense, he's potentially pleading guilty
21 to is a felony of a controlled substance offense and the
22 defendant has two prior felony convictions for
23 controlled substance offenses.

24 That being the case, your Honor, the highest range
25 would be 151 to 188 months. So the top of the range is

1 188. Your Honor, with acceptance the range would fall
2 to 120 to 150 months. So 150 would be the top of the
3 range.

4 In this case, your Honor, given the recent
5 amendment, the range would be 100 to -- 100 months to
6 125 months. In this case, your Honor, while there is no
7 agreement, the government has spoken to counsel, and
8 while it is not a plea agreement or a promise having
9 been made, the government does believe it will recommend
10 a sentence for Mr. Chisholm in the range of 78 months to
11 92 months.

12 THE COURT: Well, having mentioned that, if he
13 pleads guilty now, he can hold you to that. So that's
14 the province, 78 to 92, from you.

15 MR. YOON: Yes, your Honor.

16 THE COURT: All right. Just so long as we
17 understand.

18 So in your case, given your prior record, and you
19 don't get an separate trial on that, the documents are
20 there and we're not having a jury trial on what your
21 prior record is, so you are what's called -- if you
22 plead guilty to this, you're what's called a "career
23 offender" and I can put you in prison for 188 months.

24 Do you understand that?

25 MR. CHISHOLM: Yes, your Honor.

1 THE COURT: Now, with, under these guidelines
2 -- now I can go a little lower than these guidelines,
3 but I can go up to 188 months. With the guidelines,
4 it's 120 to 150 months. With the amendment, it's 100 to
5 125 months.

6 Do you understand that?

7 MR. CHISHOLM: Yes.

8 THE COURT: So that's what I'm going to be
9 told, that even with the amendment, the sentence that
10 the sentencing commission recommends for you is 100 to
11 125 months. Now, they are, right here, with the Court
12 Reporter taking it down, they're promising to recommend
13 not less than 78 months nor more than 92 months.

14 Is that how you understand it?

15 MR. CHISHOLM: Yes.

16 THE COURT: Okay. You understand that I don't
17 have to go along with any of that, I can go higher than
18 that all the way up to 188 months. Do you understand
19 that?

20 MR. CHISHOLM: Yes.

21 THE COURT: Now, in your case, other than the
22 promise he just made to you, is there any promise, any
23 deal, any side consideration that I don't know about?

24 MR. CHISHOLM: No.

25 THE COURT: Anyone threaten you with anything

1 to get you to plead guilty?

2 MR. CHISHOLM: No.

3 THE COURT: Are you covering up for someone
4 else by pleading guilty yourself?

5 MR. CHISHOLM: No.

6 THE COURT: You know that if you're convicted
7 of this crime and you plead guilty of it and you're not
8 a citizen, then you may be deported if you're not a
9 natural citizen under the laws of the United States and
10 you may be denied admission under the laws of the United
11 States.

12 MR. CHISHOLM: Yes, your Honor.

13 THE COURT: Have you had enough time to talk
14 this all over with your attorney?

15 MR. CHISHOLM: Yes.

16 THE COURT: Has he been a good attorney for
17 you?

18 MR. CHISHOLM: Yes.

19 THE COURT: Has he gotten to you those things
20 that are your rights under the law?

21 MR. CHISHOLM: Yes.

22 THE COURT: Are you satisfied with his
23 representation?

24 MR. CHISHOLM: Yes.

25 THE COURT: Do you still want to plead

1 guilty?

2 MR. CHISHOLM: Yes.

3 THE COURT: Why?

4 MR. CHISHOLM: Because I'm guilty.

5 THE COURT: Okay.

6 Mr. Roy, in your case there is a plea agreement.
7 Let's start there. Okay. I've given you a signed copy
8 of it, so you take a look at that document.

9 Is that your signature on the copy of it?

10 MR. ROY: Yes, your Honor.

11 THE COURT: Now, have you talked this all over
12 with Mr. Feldman-Rumpler?

13 MR. ROY: Yes, your Honor.

14 THE COURT: And have you read it?

15 MR. ROY: Yes.

16 THE COURT: And do you understand it?

17 MR. ROY: Yes, sir.

18 THE COURT: And here again, I suppose, this
19 business about waiver of his rights to appeal unless
20 otherwise -- well, I need to tell you that if I sentence
21 you, I will tell you that you have a right to appeal and
22 that's true, you do, but so long as my sentence falls
23 within those contemplated -- though I'm not part of the
24 bargain, so long as the result falls within what's
25 contemplated by this plea agreement, unless there's a

1 manifest injustice, you are stuck with the sentence that
2 I impose upon you.

3 Do you understand that?

4 MR. ROY: Yes, your Honor.

5 THE COURT: Now, I need to have Mr. Yoon tell
6 me the information that, just like the others, you need
7 to listen to Mr. Yoon.

8 MR. YOON: Yes, your Honor.

9 Mr. Roy is accountable for 760 oxycodone, 30
10 milligram pills. That is between 14.92 grams and 59.70
11 grams of oxycodone. That is equivalent to between 100
12 and 400 kilograms of marijuana.

13 The base offense level, your Honor, is 26, um, a
14 base level of 26. The range would be 78 to 97 months
15 with the high being 97 months. With acceptance, your
16 Honor, the range would be 57 months to 71 months, the
17 highest being 71. With the amendment, your Honor, the
18 range would be 46 to 57 months, 57 being the highest.
19 In this case, pursuant to a plea agreement, the
20 government will be recommending 46 months.

21 THE COURT: All right. Let's start with the
22 worst. Based upon what he's told me, I can, under the
23 Constitution, sentence you to 97 months in prison.

24 Do you understand that?

25 MR. ROY: Yes.

1 THE COURT: I'm not saying I will, but I'm not
2 bargaining, I can go up to 97 months and the plea
3 agreement still stands in effect. Do you understand
4 that?

5 MR. ROY: Yes, your Honor.

6 THE COURT: The range, as it now stands, is 57
7 to 71 months. With this amendment, which the government
8 will go for, the range becomes 46 to 57 months and they
9 promise you, if you do all the stuff in the plea
10 agreement and plead guilty, that they will recommend to
11 me that I sentence you to 46 months in prison.

12 Do you understand that?

13 MR. ROY: Yes, your Honor.

14 THE COURT: Now, other than this plea
15 agreement and the promises that they make to you in this
16 plea agreement, has anyone promised you anything to get
17 you to plead guilty?

18 MR. ROY: No, your Honor.

19 THE COURT: Has anybody threatened you with
20 anything to get you to plead guilty?

21 MR. ROY: No, your Honor.

22 THE COURT: Are you covering up for someone
23 else by pleading guilty?

24 MR. ROY: No.

25 THE COURT: Do you know that if you're not a

1 citizen of the United States, that pleading guilty to
2 this crime may have the consequence of being deported
3 from the United States, denied naturalization under the
4 laws of the United States, denied admission under the
5 laws of the United States. Do you know that?

6 MR. ROY: Yes.

7 THE COURT: Have you had enough time to talk
8 this all over with Ms. Feldman-Rumpler?

9 MR. ROY: I did.

10 THE COURT: Has she been a good attorney for
11 you, gotten for you the things that are your rights
12 under the law?

13 MR. ROY: An excellent attorney.

14 THE COURT: Are you satisfied with her
15 representation?

16 MR. ROY: Yes, your Honor.

17 THE COURT: Do you still want to plead
18 guilty?

19 MR. ROY: Yes.

20 THE COURT: Why?

21 MR. ROY: Because I'm guilty.

22 THE COURT: All right.

23 Here's what we're going to do now. Mr. Yoon,
24 focusing on the essential elements of the crime, is
25 going to telling me, with respect to you five, and he

1 may have to mention other people, but he's just going to
2 tell me briefly with respect to you five -- and so I'm
3 clear, as to these five there's no enhancements but for
4 the amount of oxycodone. I mean that's what we're
5 talking about?

6 MR. YOON: Yes, your Honor.

7 THE COURT: I mean, and a career offender for
8 Mr. Chisholm, but that's not a matter of proof at trial,
9 that's a matter of his record.

10 MR. YOON: Yes, your Honor, that's correct.

11 THE COURT: All right. So he's going to
12 explain to you -- and you don't have to mention his
13 record again, but he's going to explain what evidence he
14 thinks he can put before the jury as to you. When he's
15 done -- and I'm going to go sit down now, I'm going to
16 ask each one of you, "Do you understand what he said?"
17 And he may mention things that you don't know that don't
18 pertain to you. But as to you, I'm going to say, "Now,
19 do you understand, as to you, what he said?" And you
20 can say "Yes," "No." And don't agree to anything that
21 you're not agreeing to, because I'm going to then say to
22 you, "Well, is that true?" If you say to me, "It is
23 true," I'm going to believe it, I'm going to think that
24 actually happened, the person or persons, they're guilty
25 of that, what the crime is.

1 All right. Briefly, Mr. Yoon.

2 MR. YOON: Yes, your Honor. The government,
3 through evidence, would show that between November of
4 2012 and May of 2013, through intercepted phone calls,
5 through law enforcement visual electronic surveillance
6 and also witness testimony, that the defendants, through
7 those phone calls and in their meetings, agreed to
8 possess with intent to distribute oxycodone and also to
9 distribute oxycodone. The defendants, through those
10 phone calls, did agree to in fact possess with intent to
11 distribute and to distribute oxycodone.

12 Additionally, your Honor, the government would be
13 able to prove that these defendants bought oxycodone
14 from Michael Bourque in the amounts as were indicated
15 during the Court's conversations with the defendants.

16 The defendants, having bought that oxycodone, the
17 30 milligram pills from Michael Bourque, they were
18 purchased to be sold to retail pill customers and in
19 fact were sold to such customers. That would be the
20 evidence at trial, your Honor.

21 THE COURT: Um --

22 MR. DEMISSIE: One moment, your Honor?

23 THE COURT: Of course you may.

24 (Pause.)

25 THE COURT: Well, while he's conferring,

1 Mr. Kinney, did you hear what Mr. Yoon says?

2 MR. KINNEY: Yes, your Honor.

3 THE COURT: Do you understand it?

4 MR. KINNEY: Yes.

5 THE COURT: And do you understand that if
6 that's true, if you tell me that's true, you'll be
7 agreeing to the amounts of oxycodone that were mentioned
8 earlier while I was talking about how the sentence would
9 potentially work out.

10 You understand that?

11 MR. KINNEY: Yes, your Honor.

12 THE COURT: Are those things true?

13 MR. KINNEY: Yes, your Honor.

14 THE COURT: All right.

15 Mr. Akasa, again I just want you to understand
16 that if you agree to this, you're agreeing to the
17 specific amounts that he talked about when I was asking
18 him about the potential sentence.

19 Do you understand what he had to say with respect
20 to you?

21 MR. AKASA: Yes, I do.

22 THE COURT: Is that true?

23 MR. AKASA: Yes, it is.

24 THE COURT: And, Mr. Chisholm, I want you to
25 be clear, if you agree to this, you're agreeing to the

1 amounts that we went over when I was talking to you
2 individually and asking about the potential sentence.

3 So let me ask you, did you understand what he had
4 to say?

5 MR. CHISHOLM: Yes.

6 THE COURT: Now, as it pertains to you, is
7 that true?

8 MR. CHISHOLM: Yes.

9 THE COURT: All right.

10 Back to Mr. Goolst. Mr. Goolst, one of the things
11 here is, if you agree to this, you're agreeing to the
12 amounts that he described when he was explaining to me
13 the potential sentence that might be imposed upon you.

14 Do you understand that?

15 MR. GOOLST: I do.

16 THE COURT: Do you understand what he had to
17 say?

18 MR. GOOLST: Yes.

19 THE COURT: Is what he had to say true?

20 MR. GOOLST: Yes.

21 THE COURT: All right.

22 Mr. Roy, understanding that we're -- you would be
23 agreeing to the amounts as he earlier explained them, do
24 you understand what he had to say?

25 MR. ROY: Yes, your Honor.

1 THE COURT: Are those things, as they pertain
2 to you, are they true?

3 MR. ROY: Yes.

4 THE COURT: Thank you.

5 All right. Excuse me. I find that Mr. John
6 Kinney, Mr. Philip Goolst, Mr. David Akasa, Mr. Brian
7 Chisholm, and Mr. Michael Roy, knowingly, intelligently,
8 and voluntarily are exercising their right to plead
9 guilty to this one-count indictment, and the clerk may
10 accept the plea.

11 All of this is serious, gentlemen, but this is
12 most serious. The clerk, one by one, is going to ask
13 you -- and she's going to say, "You earlier pleaded not
14 guilty, do you want to change your plea to guilty?" If
15 you want to go through with this, you say "yes." If you
16 say "no," that's fine, we'll get you set for trial
17 here. If you say, "yes," she'll say, "How do you now
18 plead, guilty or not guilty?" If you say "guilty" when
19 the Clerk is asking you, you're guilty, no taking it
20 back or starting over.

21 Do you understand, Mr. Kinney?

22 MR. KINNEY: Yes.

23 THE COURT: Do you understand, Mr. Goolst?

24 MR. GOOLST: Yes.

25 THE COURT: Do you understand, Mr. Akasa?

1 MR. AKASA: Yes.

2 THE COURT: Do you understand, Mr. Chisholm?

3 MR. CHISHOLM: Yes.

4 THE COURT: Do you understand, Mr. Roy?

5 MR. ROY: Yes.

6 THE COURT: The Clerk may accept the pleas.

7 THE CLERK: Mr. Kinney, you have previously
8 pled not guilty to a one-count indictment charging you
9 with conspiracy to possess with intent to distribute and
10 to distribute oxycodone in violation of Title 21, United
11 States Code Section 846. Do you now wish to change your
12 plea, yes or no?

13 MR. KINNEY: Yes.

14 THE COURT: How do you now plead to Count 1,
15 guilty or not guilty?

16 MR. KINNEY: Guilty.

17 THE CLERK: Mr. Goolst, you have previously
18 pled not guilty to a one-count indictment charging you
19 with conspiracy to possess with intent to distribute and
20 to distribute oxycodone in violation of Title 21, United
21 States Code, Section 846. Do you now wish to change
22 your plea, yes or no?

23 MR. GOOLST: Yes.

24 THE COURT: How do you plead to Count 1,
25 guilty or not guilty?

1 MR. GOOLST: Guilty.

2 THE COURT: Mr. Akasa, you have previously
3 pled not guilty to a one-count indictment charging you
4 with conspiracy to possess with intent to distribute and
5 to distribute oxycodone in violation of Title 21, United
6 States Code, Section 846. Do you now wish to change
7 your plea?

8 MR. GOOLST: Yes.

9 THE COURT: How do you now plead to Count 1,
10 guilty or not guilty?

11 MR. GOOLST: Guilty.

12 THE CLERK: Mr. Chisholm, you have previously
13 plead not guilty to a one-count indictment charging you
14 with conspiracy to possess with intent to distribute and
15 to distribute oxycodone in violation of Title 21, United
16 States Code, Section 846. Do you now wish to change
17 your plea, yes or no?

18 MR. CHISHOLM: Yes.

19 THE COURT: How do you now plead to Count 1,
20 guilty or not guilty?

21 MR. CHISHOLM: Guilty.

22 THE COURT: Mr. Roy, you have previously pled
23 not guilty to a one-count indictment charging you with
24 conspiracy to possess with intent to distribute and to
25 distribute oxycodone in violation of Title 21, United

1 States Code, Section 846. Do you now wish to change
2 your plea?

3 MR. ROY: Yes.

4 THE COURT: How do you now plead to Count 1,
5 guilty or not guilty?

6 MR. ROY: Guilty.

7 THE COURT: Very well. Let's set the time for
8 sentencing.

9 In Mr. Kinney's case, I propose the 9th of July at
10 2:00 p.m. Is that satisfactory, counsel?

11 MR. McCORMICK: Your Honor, that is my
12 vacation week.

13 THE COURT: All right. We'll pick another
14 date.

15 THE CLERK: Tuesday, July 22nd?

16 MR. McCORMICK: That's fine.

17 THE COURT: And for the government, Mr. Yoon?

18 MR. YOON: Yes, sir, that's fine. Thank you.

19 THE COURT: That's the date.

20 And as to Mr. Goolst, sentencing on July 10th at
21 2:00 p.m. Is that satisfactory?

22 MR. DEMISSIE: Yes, your Honor.

23 MR. YOON: Yes, your Honor.

24 THE COURT: Very well.

25 Mr. Akasa, July 14th, at 2:00 p.m.?

1 MR. BARRON: Yes, your Honor.

2 MR. YOON: Yes, your Honor.

3 THE COURT: Very well.

4 Mr. Chisholm, July 15th, at 2:00 p.m.?

5 MR. PALMER: Your Honor, that's my vacation
6 week.

7 THE COURT: We'll pick another date.

8 THE CLERK: July 9th?

9 MR. PALMER: That's fine.

10 THE COURT: All right, July 9th at 2:00 p.m.
11 I didn't hear the government?

12 MR. YOON: Yes, that's fine.

13 THE COURT: Very well.

14 And, Mr. Roy, July 21st at 2:00 p.m.?

15 MS. FELDMAN-RUMPLER: That's fine, your Honor.

16 MR. YOON: That's fine, your Honor. Thank
17 you.

18 THE COURT: Very well.

19 Now, the defendants are in custody and they're
20 remanded to custody. Counsel, you're excused, but would
21 you, before you leave the courthouse today, go by
22 probation, tell them of this changed circumstance so
23 that they may start a presentence report. Thank you.
24 They're remanded to custody.

25 (10:20, first five leave.)

1 THE COURT: The Court will take a brief recess
2 while we set up. We'll recess.

3 (10:20 a.m., break.)

4 (**EXCERPT** ends.)

5

6 C E R T I F I C A T E

7

8 I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER,
9 do hereby certify that the foregoing record is a true
10 and accurate transcription of my stenographic notes, of
11 the aforementioned **EXCERPT**, before Judge William G.
12 Young, on Monday, April 14, 2014, to the best of my
13 skill and ability.

14

15

16 /s/ Richard H. Romanow 07-14-14

17 _____
RICHARD H. ROMANOW Date

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